

AMENDED IN ASSEMBLY JANUARY 4, 2016

AMENDED IN ASSEMBLY APRIL 6, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 927

**Introduced by Assembly Member McCarty
(Coauthors: Assembly Members Brown and Rodriguez)**

February 26, 2015

An act to amend Sections 1265, 1265.3, 1267.5, and 1422.5 of the Health and Safety Code, relating to health facilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 927, as amended, McCarty. Health facilities: nursing homes.

Existing law provides for the licensure and regulation of health facilities, as defined. A violation of those provisions is a crime. Existing law requires any person or government entity desiring a license for a health facility, approval for a special service, or approval to manage a health facility currently licensed as a general acute care hospital, acute psychiatric hospital, skilled nursing facility, intermediate care facility, or special hospital, that has not filed an application for a license to operate that facility, to file with the department a verified application containing specific information.

This bill would require the denial of an application under those provisions if the applicant fails to provide the requisite information or provide it in the form requested.

Existing law requires each applicant for a license to operate a skilled nursing facility or intermediate care facility to make certain disclosures regarding corporate governance and ownership to the State Department of Public Health. Existing law prohibits certain persons, as defined,

from governing or owning a beneficial interest of 5% or more of a skilled nursing facility or intermediate care facility, as specified, without approval of the department.

This bill would expand those disclosure requirements and the provisions that prohibit certain persons from governing or owning a beneficial interest in a skilled nursing facility or intermediate care facility, as specified. The bill would establish provisions for the denial of an application under circumstances in which a person named in an application has governed or owned a facility that has violated the law during a certain timeframe, as specified, *and would require the department to investigate whether an applicant has been subject to professional discipline.*

Existing law requires the department to implement a consumer information service system regarding long-term care facilities.

This bill would revise the information the system is required to contain and would require it to be available on the Internet by March 1, ~~2016~~ 2017.

Because this bill would require additional disclosures, of which a failure to disclose or a false disclosure would be a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. This act shall be known as the Nursing Home
- 2 Ownership Disclosure Act of ~~2015~~ 2016.
- 3 SEC. 2. Section 1265 of the Health and Safety Code is amended
- 4 to read:
- 5 1265. (a) Any person, political subdivision of the state, or
- 6 governmental agency desiring a license for a health facility,
- 7 approval for a special service under this chapter, or approval to
- 8 manage a health facility currently licensed as a health facility, as
- 9 defined in subdivision (a), (b), (c), (d), or (f) of Section 1250, that
- 10 has not filed an application for a license to operate that facility

1 shall file with the department a verified application on forms
2 prescribed and furnished by the department, containing all of the
3 following:

4 (1) The name of the applicant and, if an individual, whether the
5 applicant has attained the age of 18 years.

6 (2) The type of facility or health facility.

7 (3) The location thereof.

8 (4) The name of the person in charge thereof.

9 (5) Evidence satisfactory to the department that the applicant
10 is of reputable and responsible character. If the applicant is a firm,
11 association, organization, partnership, business trust, corporation,
12 or company, like evidence shall be submitted as to the members
13 or shareholders thereof, and the person in charge of the health
14 facility for which application for license is made. If the applicant
15 is a political subdivision of the state or other governmental agency,
16 like evidence shall be submitted as to the person in charge of the
17 health facility for which application for license is made.

18 (6) Evidence satisfactory to the department of the ability of the
19 applicant to comply with this chapter and of rules and regulations
20 promulgated under this chapter by the department.

21 (7) Evidence satisfactory to the department that the applicant
22 to operate a skilled nursing facility or intermediate care facility
23 possesses financial resources sufficient to operate the facility for
24 a period of at least 45 days. A management company shall not be
25 required to submit this information.

26 (8) Each applicant for a license to operate a skilled nursing
27 facility or intermediate care facility shall disclose to the department
28 evidence of the right to possession of the facility at the time the
29 application will be granted, which may be satisfied by the
30 submission of a copy of applicable portions of a lease agreement
31 or deed of trust. The names and addresses of any persons or
32 organizations listed as owner of record in the real estate, including
33 the buildings and the grounds appurtenant to the buildings, shall
34 be disclosed to the department.

35 (9) Any other information as may be required by the department
36 for the proper administration and enforcement of this chapter.

37 (10) Upon submission of an application to the department by
38 an intermediate care facility/developmentally disabled habilitative
39 or an intermediate care facility/developmentally disabled-nursing,
40 the application shall include a statement of need signed by the

1 chairperson of the area board pursuant to Chapter 4 (commencing
2 with Section 4570) of Division 4.5 of the Welfare and Institutions
3 Code. In the event the area board has not provided the statement
4 of need within 30 days of receipt of the request from the applicant,
5 the department may process the application for license without the
6 statement.

7 (b) The information required pursuant to this section, other than
8 individuals' social security numbers, shall be made available to
9 the public upon request, and shall be included in the department's
10 public file regarding the facility.

11 (c) With respect to a facility licensed as a health facility, as
12 defined in subdivision (a), (b), or (f) of Section 1250, for purposes
13 of this section, "manage" means to assume operational control of
14 the facility.

15 (d) Failure of an applicant to cooperate with the licensing agency
16 in the completion of an application pursuant to this section shall
17 result in the denial of the application. "Failure of an applicant to
18 cooperate" means that the information required pursuant to this
19 chapter and by regulations of the department has not been provided,
20 or has not been provided in the form requested by the licensing
21 agency, or both.

22 SEC. 3. Section 1265.3 of the Health and Safety Code is
23 amended to read:

24 1265.3. (a) For any individual or entity that seeks approval to
25 operate or manage a health facility licensed pursuant to subdivision
26 (a), (b), (c), (d), or (f) of Section 1250 and is subject to Section
27 1265, the department shall consider the following:

28 (1) To determine whether the applicant is of reputable and
29 responsible character, the department shall consider any available
30 information that the applicant has demonstrated a pattern and
31 practice of violations of state or federal laws and regulations. The
32 department shall give particular consideration to those violations
33 that affect the applicant's ability to deliver safe patient or resident
34 care.

35 (2) To determine whether the applicant has the ability to comply
36 with this chapter and the rules and regulations adopted under this
37 chapter, the department shall consider evidence that shall include
38 all of the following:

39 (A) If any, prior history of operating in this state any other
40 facility licensed pursuant to Section 1250, and the applicant's

1 history of substantial compliance with the requirements imposed
2 under that license, applicable federal laws and regulations, and
3 requirements governing the operators of those facilities.

4 (B) If any, prior history of operating in any other state any
5 facility authorized to receive Medicare Program reimbursement
6 or Medicaid Program reimbursement, and the applicant's history
7 of substantial compliance with that state's requirements, and
8 applicable federal laws, regulations, and requirements.

9 (C) If any, prior history of providing health services as a licensed
10 health professional or an individual or entity contracting with a
11 health care service plan or insurer, and the applicant's history of
12 substantial compliance with state requirements, and applicable
13 federal laws, regulations, and requirements.

14 (b) The department may also require the entity described in
15 subdivision (a) to furnish other information or documents for the
16 proper administration and enforcement of the licensing laws.

17 SEC. 4. Section 1267.5 of the Health and Safety Code is
18 amended to read:

19 1267.5. (a) (1) Each applicant for a license to operate a skilled
20 nursing facility or intermediate care facility shall disclose to the
21 state department the name and business address of each general
22 partner if the applicant is a partnership, or each director and officer
23 if the applicant is a corporation, and each person having a beneficial
24 ownership interest of 5 percent or more in the applicant corporation
25 or partnership.

26 (2) If any person described in paragraph (1) has served or
27 currently serves as an administrator, general partner, trustee or
28 trust applicant, sole proprietor of any applicant or licensee who is
29 a sole proprietorship, executor, or corporate officer or director of,
30 or has held a direct or indirect beneficial ownership interest of 5
31 percent or more in, any other skilled nursing facility or intermediate
32 care facility in this state or any other state, in any community care
33 facility licensed pursuant to Chapter 3 (commencing with Section
34 1500), or in any residential care facility for the elderly licensed
35 pursuant to Chapter 3.2 (commencing with Section 1569), the
36 applicant shall disclose the relationship to the state department,
37 including the name and current or last address of the health facility,
38 community care facility, or residential care facility for the elderly,
39 and the date the relationship commenced and, if applicable, the
40 date it was terminated.

(3) (A) If the facility is operated by, or proposed to be operated in whole or part under, a management contract, the names and addresses of any person or organization, or both, having an ownership or control interest of 5 percent or more in the management company shall be disclosed to the state department. This provision shall not apply if the management company has submitted an application for licensure with the state department and has complied with paragraph (1).

(B) If the management company is a subsidiary of one or more other organizations, the information shall include the names and addresses of the parent organizations of the management company and the names and addresses of any officer or director of the parent organizations. The failure to comply with this subparagraph may result in action to revoke or deny a license. However, once the information that is required under this subparagraph is provided, the action to revoke the license shall terminate.

(C) If the management company or parent organizations of the management company manage or previously managed any other skilled nursing facility or intermediate care facility in this state or any other state, any community care facility licensed pursuant to Chapter 3 (commencing with Section 1500), or any residential care facility for the elderly licensed pursuant to Chapter 3.2 (commencing with Section 1569), the applicant shall disclose the name and current or last address of the health facility, community care facility, or residential care facility for the elderly, and the date the management commenced and, if applicable, the date it was terminated.

(4) (A) If the applicant or licensee is a subsidiary of one or more other organizations, the information shall include the names and addresses of the parent organizations of the subsidiary and the names and addresses of any officer or director of the parent organizations.

(B) If the parent organizations of the subsidiary or applicant own or manage, or previously owned or managed, any other skilled nursing facility or intermediate care facility in this state or any other state, any community care facility licensed pursuant to Chapter 3 (commencing with Section 1500), or any residential care facility for the elderly licensed pursuant to Chapter 3.2 (commencing with Section 1569), the applicant shall disclose the relationship to the state department, including the name and current

1 or last address of the health facility, community care facility, or
2 residential care facility for the elderly, and the date the relationship
3 commenced and, if applicable, the date it was terminated.

4 *(C) If the information provided by the applicant indicates that*
5 *the applicant is a professional licensed by the State of California,*
6 *the department shall contact the appropriate licensing agency to*
7 *obtain information about disciplinary actions taken against the*
8 *licensee and to confirm that the applicant is a licensee in good*
9 *standing.*

10 (5) The applicant shall disclose the history of compliance and
11 any history of noncompliance with any applicable state or federal
12 law or regulation for each facility described in paragraph (2),
13 subparagraph (C) of paragraph (3), and subparagraph (B) of
14 paragraph (4) during the period in which any of the following
15 apply:

16 (A) Any person described in paragraph (1) had a relationship
17 to the facility.

18 (B) Any management company described in paragraph (3)
19 managed the facility.

20 (C) Any parent organizations described in paragraph (4) had a
21 relationship to the facility.

22 *(D) This paragraph does not apply to applicants that are*
23 *currently licensed as a health facility, as defined in subdivision*
24 *(a), (b), or (f) of Section 1250.*

25 (6) The information required by this subdivision shall be
26 provided to the state department upon initial application for
27 licensure, and any change in the information shall be provided to
28 the state department within 30 calendar days of that change.

29 (7) Except as provided in subparagraph (B) of paragraph (3),
30 the failure to comply with this section may result in action to
31 revoke or deny a license.

32 (8) The information required by this section shall be made
33 available to the public upon request, shall be included in the public
34 file of the facility, and by July 1, 2002, shall be included in the
35 department's automated certification licensing administration
36 information management system.

37 (b) (1) On and after January 1, 1990, no person may acquire a
38 direct or indirect beneficial interest of 5 percent or more in any
39 corporation, partnership, or limited liability company licensed to
40 operate a skilled nursing facility or intermediate care facility, in

1 any parent organizations of a corporation, partnership, or limited
2 liability company licensed to operate a skilled nursing facility or
3 intermediate care facility, in any management company under
4 contract with a licensee of a skilled nursing facility or intermediate
5 care facility, or in any parent organizations of a management
6 company under contract with a licensee of a skilled nursing facility
7 or intermediate care facility, nor may any person become an officer
8 or director of, or general partner in, a corporation, partnership,
9 limited liability company, or management company of this type
10 without the prior written approval of the state department. Each
11 application for departmental approval pursuant to this subdivision
12 shall include the information specified in subdivision (a) ~~as regards~~
13 *regarding* the person for whom the application is made.

14 (2) The state department shall approve or disapprove the
15 application within 30 days after receipt thereof, unless the state
16 department, with just cause, extends the application review period
17 beyond 30 days.

18 (c) The state department shall deny approval of a license
19 application or of an application for approval under subdivision (b)
20 if a person named in the application, as required by this section,
21 was an officer, director, general partner, or owner of a 5-percent
22 or greater direct or indirect beneficial interest in a licensee or in
23 any parent organizations of a licensee of, or in a management
24 company under contract with a licensee of, a skilled nursing
25 facility, intermediate care facility, community care facility, or
26 residential care facility for the elderly at a time during the
27 seven-year period prior to the application in which that facility
28 committed one or more violations of law or regulatory requirements
29 that resulted in any of the following:

30 ~~(1) Immediate jeopardy to the health, safety, or welfare of one~~
31 ~~or more residents.~~

32 ~~(2) Suspension or~~

33 ~~(1) Issuance of a temporary suspension order or revocation of~~
34 ~~a facility's license; license by the department.~~

35 ~~(3) Termination of~~

36 ~~(2) Involuntary termination of a facility's Medicare or Medi-Cal~~
37 ~~certification.~~

38 ~~(4)~~

39 ~~(3) Appointment of a court-ordered receiver pursuant to Section~~
40 ~~1327.~~

(d) The state department may deny approval of a license application or of an application for approval under subdivision (b) if a person named in the application, as required by this section, was an officer, director, general partner, or owner of a 5-percent or greater beneficial interest in a licensee or in any parent organizations of a licensee of, or in a management company under contract with a licensee of, a skilled nursing facility, intermediate care facility, community care facility, or residential care facility for the elderly at a time during the seven-year period prior to the application in which any of the following occurred:

(1) The department revoked, suspended, or denied a nursing home administrator's license held or sought by the person.

(2) The State Department of Social Services revoked, suspended, or denied a residential care facility for the elderly administrator's certificate held or sought by the person pursuant to Chapter 3.2 (commencing with Section 1569).

(3) The person prevented or attempted to impede the work of any authorized representative of the department.

(4) The person failed to demonstrate competence in operating a facility.

(5) The person failed to report abuse of residents in accordance with any state or federal requirement.

(6) The facility committed one or more violations of law or regulatory requirements that resulted in any of the following:

(A) *Immediate jeopardy to the health, safety, or welfare of one of more residents.*

~~(A)~~

(B) A settlement agreement to resolve proceedings to suspend, deny, or revoke the license of a facility or to terminate a facility's Medicare or Medi-Cal certification.

~~(B)~~

(C) Appointment of a temporary manager pursuant to Section 1325.5.

~~(C)~~

(D) One or more class "A" or class "AA" citations pursuant to Section 1424 or 1424.5.

~~(D)~~

(E) A court order or judgment granting damages or any form of equitable relief, including an injunction, resulting from an action filed by the Attorney General.

1 (e) No application shall be denied pursuant to this section until
2 the state department first (1) provides the applicant with notice in
3 writing of grounds for the proposed denial of application, and (2)
4 affords the applicant an opportunity to submit additional
5 documentary evidence in opposition to the proposed denial.

6 (f) Nothing in this section shall cause any individual to be
7 personally liable for any civil penalty assessed pursuant to Chapter
8 2.4 (commencing with Section 1417) or create any new criminal
9 or civil liability contrary to general laws limiting that liability.

10 (g) This section shall not apply to a bank, trust company,
11 financial institution, title insurer, controlled escrow company, or
12 underwritten title company to which a license is issued in a
13 fiduciary capacity.

14 (h) This section shall not apply to the directors of a nonprofit
15 corporation exempt from taxation under Section 23701d of the
16 Revenue and Taxation Code that operates a skilled nursing facility
17 or intermediate care facility in conjunction with a licensed
18 residential facility, where the directors serve without financial
19 compensation and are not compensated by the nonprofit corporation
20 in any other capacity.

21 (i) For purposes of this section:

22 (1) "Beneficial interest" means the interest held by any person,
23 including a private equity firm and real estate investment trust,
24 that acquires an interest in any entity, including, but not limited
25 to, any firm, association, organization, partnership, business trust,
26 investment trust, corporation, or limited liability company, that is
27 licensed to operate a facility, as defined in subdivision (c) or (d)
28 of Section 1250, by assuming that entity's debt.

29 (2) "Indirect beneficial interest" means the interest held by any
30 person, including a private equity firm and real estate investment
31 trust, that provides capital or assets to a facility, as defined in
32 subdivision (c) or (d) of Section 1250, in exchange for a share of
33 5 percent or more of the facility's gross income or profits.

34 (3) "Management company" means any company or entity that
35 has assumed operational or managerial control over the facility or
36 who directly or indirectly conducts the day-to-day operations of
37 the facility either under contract or through some other
38 arrangement.

39 (4) "Person" has the same meaning as specified in Section 19.

1 SEC. 5. Section 1422.5 of the Health and Safety Code is
2 amended to read:

3 1422.5. (a) The department shall develop and establish a
4 statewide consumer information service system to provide current
5 and accurate information to the general public and consumers
6 regarding long-term care facilities in their communities. The
7 consumer information service system shall include, but need not
8 be limited to, all of the following elements:

9 (1) An online information system available on the Internet
10 through an accessible Internet Web site. The Internet Web site
11 created pursuant to this paragraph shall be operational and made
12 available to the public by March 1, ~~2016~~, 2017, and shall include
13 the information elements specified in paragraph (2).

14 (2) Long-term health care facility profiles, with data on services
15 provided, a history of all deficiencies, citations, and complaints
16 for the last three full survey cycles, and current ownership
17 information. The *online* profile for each facility shall include, but
18 not be limited to, all of the following:

19 (A) The name, address, and telephone number of the facility.

20 (B) The name of the current administrator, director of nursing,
21 and medical director.

22 (C) Current and accurate ownership information pursuant to
23 Sections 1265, 1267.5, 1599.64, and 1599.645, including, but not
24 limited to, all of the following:

25 (i) Whether the facility is a for-profit or not-for-profit provider.

26 (ii) The name, address, and telephone number of the licensee.

27 (iii) The name and contact information of a single entity that is
28 responsible for all aspects of patient care and the operation of the
29 facility.

30 (iv) Whether the facility is part of a multifacility organization
31 and, if so, the name, address, and telephone number of the
32 organization and, if applicable, of any parent organizations.

33 (v) Whether the facility is operated by a management company
34 and, if so, the name, address, and telephone number of the
35 management company and, if applicable, of any parent
36 organizations of the management company.

37 (vi) The names and addresses of each person who is an officer
38 or director of the licensee, parent organizations, and management
39 company, if applicable.

- 1 (vii) The names and addresses of any person or organization,
2 or both, having an ownership or control interest of 5 percent or
3 more in the licensee, parent organizations, and management
4 company, if applicable.
- 5 (viii) The names and addresses of all long-term health care
6 facilities owned, leased, managed, or operated by any person,
7 corporation, management company, parent organization, or other
8 entity described in clauses (ii) to (vii), inclusive.
- 9 (ix) The names and addresses of the property owners.
- 10 (D) The number of licensed beds in the facility.
- 11 (E) Whether the facility accepts Medicare or Medi-Cal patients.
- 12 (F) Whether the facility has filed a notice of intent to withdraw
13 from the Medi-Cal program, and the date that the notice of intent
14 to withdraw was filed with the department.
- 15 (G) Whether the facility has a special care unit or program for
16 people with Alzheimer's disease and other dementias, and whether
17 the facility participates in the voluntary disclosure program for
18 special care units.
- 19 (H) Information regarding all complaints, along with any
20 outcome, including, but not limited to, the date of the complaint,
21 the nature of the complaint, the date the complaint was investigated,
22 the action taken, and the date of the action taken.
- 23 ~~(I) Information describing all~~
- 24 *(I) The text of all* state and federal deficiencies issued to the
25 facility, including, but not limited to, the date of the deficiency,
26 the nature of the deficiency, the scope and severity of the
27 deficiency, and a statement that the facility's plan of correction is
28 available upon request through the department's district offices.
- 29 ~~(J) Information describing all~~
- 30 *(J) The text of all* state citations assessed, including, but not
31 limited to, the date of the citation, the nature of the citation, the
32 class of the citation, the amount of the penalty assessed, and the
33 status of the citation.
- 34 (K) Updated information, on a regular and timely basis,
35 regarding any appeal resolution pertaining to a citation or
36 complaint.
- 37 (L) Information describing state enforcement actions imposed,
38 including, but not limited to, license suspensions, revocations, and
39 the appointment of temporary managers and receiverships.

1 (M) Information describing federal enforcement sanctions
2 imposed, including, but not limited to, any denial of payment,
3 temporary management, termination, or any civil monetary penalty
4 ~~imposed.~~ *imposed, if available from the federal Centers for*
5 *Medicare and Medicaid Services.*

6 (N) Information on compliance with staffing ratio requirements.

7 (O) Any information or data the department deems beneficial
8 to the public and consumers.

9 (b) It is the intent of the Legislature that the department, in
10 developing and establishing the system pursuant to subdivision
11 (a), maximize the use of available federal funds.

12 (c) In implementing this section, the department shall ensure
13 the confidentiality of personal and identifying information of
14 residents and employees and shall not disclose this information
15 through the consumer information service system developed
16 pursuant to this section.

17 (d) The department shall make current written copies of the
18 long-term health care facility profiles available to the public
19 through its district offices.

20 SEC. 6. No reimbursement is required by this act pursuant to
21 Section 6 of Article XIII B of the California Constitution because
22 the only costs that may be incurred by a local agency or school
23 district will be incurred because this act creates a new crime or
24 infraction, eliminates a crime or infraction, or changes the penalty
25 for a crime or infraction, within the meaning of Section 17556 of
26 the Government Code, or changes the definition of a crime within
27 the meaning of Section 6 of Article XIII B of the California
28 Constitution.